

## EXPEDITING TRUCKER REIMBURSEMENT FOR FUEL PRICE INCREASES

FEBRUARY 6, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, and Mr. S. H. YOUNG of Illinois, from the Committee on Interstate and Foreign Commerce, submitted the following

### REPORT

[To accompany H.J. Res. 893]

The Committee on Interstate and Foreign Commerce, to whom was referred the joint resolution (H.J. Res. 893) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (sub-No. 2), having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

#### SUMMARY OF LEGISLATION

House Joint Resolution 893 would expedite the effective date of any final order issued by the Interstate Commerce Commission in their proposed order docket No. MC 43 (sub No. 2). The legislation would make such a Commission decision effective by February 15, 1974.

#### BACKGROUND

Independent owner-operators who lease their equipment and services to regulated motor carriers have been particularly hard hit by the skyrocketing price of fuel during the current energy crises.

These owner-operators have no standing before the Interstate Commerce Commission to petition for rate increases. On the other hand, the Commission acted on December 13, 1973, to provide a means by which the regulated carriers could recover additional costs because of fuel price increases. In Special Permission docket No. 74-1825, an order was issued allowing a carrier's fuel cost increases to be quickly passed through to the transportation users. Normally, carriers must publish tariffs of rate changes 30 to 45 days before the changes become effective. Under the special permission order, rate changes in the form of surcharges reflecting fuel cost increases may now be published to become effective in 10 days.

The Commission issued an amended order on January 10, 1974, clarifying its intention that the person actually responsible for contractual arrangement or otherwise for the payment of fuel costs is to receive the full increase in revenue derived from the surcharge.

Unfortunately, the regulated carriers have been reluctant to pass along this surcharge increase to the independent owner-operator. Some have done so, but most have not.

The Commission, in docket No. MC 43 (sub No. 2) proposes to amend subparagraph (5) of section 1057.4 of part 1057 of title 49 of the Code of Federal Regulations by adding at the end thereof the following two new sentences:

Compensation paid by the lessee shall, on and after 1974, and notwithstanding any other arrangement therefor, be increased by an amount equal to the increased costs of fuel purchased at lawful prices and borne by the lessor, provided the lessor is responsible for supplying the fuel consumed in operations conducted under the lease. The amount of such increase shall be: (1) added to the compensation paid the lessor for the leased equipment; and (ii) computed by subtracting from the lawful prices actually paid or to be paid by the lessor for fuel consumed in the operations for which the equipment is leased, the lawful price or prices of the same type of fuel under the same pricing practice in effect on May 15, 1973.

This new order would in effect mandate the passthrough of the fuel surcharge to the independent owner-operators.

Section 221(b) of the Interstate Commerce Act requires at least a 30-day period to elapse from date of issuance of the order to the date it becomes effective. Because of the statutory procedures for Commission orders, the decision in docket No. MC 43 (sub No. 2) could not become effective until late March 1974. This legislation removes that legal barrier to an expedited effective date.

The May 15, 1973, base period for fuel prices considered in the Commission's proposed order was taken from a decision by the Cost of Living Council's ruling of September 28, in regard to fuel prices.

#### COMMITTEE CONSIDERATION

The Subcommittee on Transportation and Aeronautics held a hearing on truckers problems on January 30, and were briefed by Chairman George Stafford of the Interstate Commerce Commission on the docket No. MC 43 (sub No. 2).

The Department of Transportation transmitted a communication to the House and Senate on February 4, 1974, requesting the legislation embodied in House Joint Resolution 893.

The full Committee on Interstate and Foreign Commerce met on February 6, and heard testimony from the Interstate Commerce Commission, the Department of Transportation, and the Department of Justice. The committee ordered the bill reported by voice vote.

## COST OF LEGISLATION

There will be no Federal funds expended by enactment of this legislation.

## AGENCY COMMENTS

THE SECRETARY OF TRANSPORTATION,  
Washington, D.C., February 4, 1974.

Identical letter sent to:

HON. GERALD R. FORD,  
*President of the Senate,*  
Washington, D.C.

HON. CARL ALBERT,  
*Speaker of the House of Representatives,*  
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC-43 (sub. No. 2).

The energy shortage which this country is experiencing along with the governmental responses to this problem have created a particularly acute and serious problem for a portion of the trucking industry, the owner-operators. Owner-operators are truckers who own and operate their own truck vehicles which they lease to regulated trucking companies. The compensation of the owner-operator is established in a lease agreement between the owner-operator and the regulated trucking company. These lease agreements have a term of at least 30 days and may have a much longer term. Under the leasing agreement, the owner-operators' compensation is generally fixed in terms of some proportion, normally 80 percent, of the total revenues earned by the regulated carrier.

Many owner-operators today find themselves in an extremely vulnerable financial position and face the very real prospect of foreclosure on their vehicles, because productivity of the vehicles has fallen off significantly while their operating costs have risen substantially. Since owner-operators are not regulated carriers they cannot file for rate increases before the ICC, but must depend upon the regulated carriers to file for such increases. Despite the fact that the Commission has taken action to ease the ability of the regulated carriers to reimburse the owner-operators for fuel cost increases, the regulated carriers for competitive reasons have been reluctant to file for increased rates.

In December 1973, the Commission sought to deal with the owner-operators problem by easing the ability of regulated carriers to reimburse owner-operators for fuel cost increases which they had experienced. In January 1974, the Commission acted to clarify its intent that revenues received by regulated carriers as a consequence of increasing rates pursuant to the December order were to be passed on to the owner-operators. Unfortunately these efforts have not relieved

the owner-operators' problems because of the fact that relatively few regulated carriers have filed for such increases.

On January 30, 1974, the Commission again sought to meet the problem by revising the leasing regulation to require the regulated carriers to reimburse the owner-operators for all fuel cost increases above the level of May 15, 1973 (docket No. MC-43 (sub. No. 2)). In an effort to effectuate this proposal expeditiously the order provided for a 20-day comment period compared to the usual 30-day comment period for such orders. It appears, however, that the Commission is precluded by section 221 (b) of the Interstate Commerce Act, 49 U.S.C. 321(b), from making its order in this proceeding final in less than 30 days after the 20-day comment period expires and the Commission can issue a final rule.

The Commission's inability to effectuate its final order more promptly will cause substantial hardship to the owner-operators and, as a consequence, to the shipping and consuming public. Owner-operators represent a vital part of this Nation's trucking industry and their present financial difficulties are a serious threat to the commerce and well being of the Nation. The Commission's proposal in docket No. MG-43 (sub. No. 2) for reimbursing owner-operators for fuel cost increases offers a sound approach to this particular problem at least insofar as owner-operators serving regulated carriers is concerned. To meet the immediate problem, however, the Commission's order should be made final promptly. The proposed joint resolution would meet the problem by allowing the Commission's final order to become effective within such time as the Commission in its discretion shall determine, but not later than February 15, 1974. The proposed joint resolution does not require the Commission to adopt the proposed order or to take any other specific action. It merely provides that, whatever order the Commission adopts, it shall become effective promptly.

The Office of Management and Budget has advised that there is no objection from the standpoint of the administration's program to the transmission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

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